



# ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature  
First Regular Session

Senate: JUD DP 6-1-0-0 | 3<sup>rd</sup> Read DPA 21-8-1-0-0  
House: JUD DP 5-3-0-0-0 | 3<sup>rd</sup> Read DP 35-24-1-0-0

## **SB 1027: carfentanil; fentanyl; minors; penalties**

**Sponsor: Senator Kern, LD 27**

**Transmitted to the Governor**

### **Overview**

Establishes *knowingly manufacturing carfentanil, fentanyl or fentanyl memetic substances under any circumstance that causes physical injury to a minor who is under 15 years of age* as a class 2 felony offense punishable as a *dangerous crime against children* (DCAC) and makes changes to existing sentencing provisions for certain narcotic drug offenses.

### **History**

The criminal code defines *narcotic drugs* to encompass a detailed list of materials, compounds, mixtures or preparations containing various substances or derivatives. Heroin, carfentanil, fentanyl and fentanyl memetic substances, among many others, are included in this definition. Statute also defines the *threshold amount* for certain narcotic drugs that, if met or exceeded in any given case, may operate the increase the applicable prison sentence or affect the convicted person's eligibility for probation or release (A.R.S. §§ [13-3401](#), [13-3408](#), [13-3410](#), [13-3420](#)).

It is a criminal offense to knowingly:

- 1) *Possess or use a narcotic drug*, which is a class 4 felony with eligibility for probation if a first-time offense that is not subject to any other special sentencing provision(s);
- 2) *Possess a narcotic drug for sale*, which is a class 2 felony that, if the amount of the drug involved in the offense (or all of the offenses that are consolidated for trial) meets or exceeds the statutory threshold, is ineligible for suspension of sentence, probation, pardon or release until the sentence is served, the person is eligible for community supervision or the sentence is commuted;
- 3) *Possess equipment or chemicals, or both, for the purpose of manufacturing a narcotic drug*, which is a 3 felony that is eligible for probation if a first-time offense that is not subject to any other special sentencing provision(s);
- 4) *Manufacture a narcotic drug*, which is a class 2 felony that is ineligible for suspension of sentence, probation, pardon or release until the sentence is served, the person is eligible for community supervision or the sentence is commuted;
- 5) *Administer a narcotic drug to another person*, which is a class 2 felony that, if the amount of the drug involved in the offense (or all of the offenses that are consolidated for trial) meets or exceeds the statutory threshold, is ineligible for suspension of sentence, probation, pardon or release until the sentence is served, the person is eligible for community supervision or the sentence is commuted;
- 6) *Obtain or procure the administration of a narcotic drug by fraud, deceit, misrepresentation or subterfuge*, which is a class 3 felony that is eligible for parole if a first-time offense that is not subject to any other special sentencing provision(s); or
- 7) *Transport for sale, import into Arizona, offer to transport for sale or import into Arizona, sell, transfer or offer to sell or transfer a narcotic drug*, which is a class 2 felony that, if the amount of the drug involved in the offense (or all of the offenses that are consolidated for trial) meets

or exceeds the statutory threshold, is ineligible for suspension of sentence, probation, pardon or release until the sentence is served, the person is eligible for community supervision or the sentence is commuted ([A.R.S. § 13-3408](#)).

DCACs are a category of criminal offenses that may be treated differently when they involve a defendant who is at least 18 years old (or tried as an adult) and a victim who is below 15 years old (or an unborn child). Statute specifies numerous offenses that may be punishable as a DCAC, meaning that they can be subject to increased prison sentences and special provisions regarding the defendant's eligibility for probation or early release ([A.R.S. § 13-705](#)).

When a person is convicted of a non-capital felony offense, statute delineates several aggravating and mitigating factors that, if found to be true, the court must consider in either increasing or decreasing the applicable presumptive sentence ([A.R.S. § 13-701](#)).

General terms such as *possess* and *possession*, in addition to the *culpable mental states* applicable throughout the criminal code, including *knowingly*, are defined in statute ([A.R.S. § 13-105](#)).

### **Provisions**

1. Establishes *knowingly manufacturing carfentanil, fentanyl or fentanyl mimetic substances under any circumstance that causes physical injury to a minor who is under 15 years of age* as a class 2 felony offense punishable as a DCAC. (Sec. 3)
2. Allows a person who is at least 18 years old (or tried as an adult) and convicted for a DCAC in the first-degree involving the manufacture of carfentanil, fentanyl or fentanyl mimetic substances under circumstances that cause physical injury to a minor under 12 years old to be sentenced to life imprisonment without eligibility for suspension of sentence, probation, pardon or release, with certain exceptions, until the person has served 35 years or the sentence is commuted. (Sec. 1)
3. If life imprisonment is not imposed as outlined above, or if the victim is a minor who is 12, 13 or 14 years old, requires a person convicted of manufacturing carfentanil, fentanyl or fentanyl mimetic substances under circumstances that cause physical injury to a minor to be sentenced to imprisonment as follows:
  - a) A minimum sentence of 13 years;
  - b) A presumptive sentence of 20 years;
  - c) A maximum sentence of 27 years. (Sec. 1)
4. Establishes the following sentencing ranges, if the drug involved is heroin, carfentanil, fentanyl or a fentanyl mimetic substance, for a person convicted of possession for sale; manufacture for sale; administration to another person; or transport for sale, import into Arizona, offer to transport for sale or import into Arizona, sale, transfer or offer to sell or transfer:
  - a) A minimum sentence of 5 years;
  - b) A presumptive sentence of 10 years;
  - c) A maximum sentence of 15 years. (Sec. 2)
5. Increases each of the above minimum, presumptive and maximum sentences by 5 years if the person was previously convicted of one of the above-outlined offenses or manufacturing carfentanil, fentanyl or fentanyl mimetic substances under any circumstance that causes physical injury to a minor who is under 15 years of age. (Sec. 2)
6. Allows the presumptive terms outlined in the two previously mentioned provisions to be mitigated or aggravated. (Sec. 2)

Prop 105 (45 votes)     Prop 108 (40 votes)     Emergency (40 votes)     [Fiscal Note](#)

7. Requires the amount of drugs involved in the offense of manufacture of a narcotic drug (or all of the offenses that are consolidated for trial), unless the offense involves heroin, carfentanil, fentanyl or fentanyl mimetic substances, to meet or exceed the threshold amount in order for the person to be ineligible for suspension of sentence, probation, pardon or release, unless certain exceptions apply. (Sec. 2)
8. Makes technical and conforming changes. (Sec. 1, 2)